

Application Serial No. 10/579,274  
Reply to Office Action of April 18, 2011

PATENT  
Docket: CU-8471

## REMARKS

In the Office Action, dated April 18, 2011, the Examiner states that Claims 1-11, 21 and 23-27 are pending, Claims 1, 2, 7-11, 21, 23-25 and 27 are rejected and Claims 3-6 and 26 are objected to. By the present Amendment, Applicant amends the claims.

### Rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a)

Claims 1, 2, 9-11, 21, 23 and 24 are rejected under 35 U.S.C. §102(b) as being anticipated by US 6,220,357 (Carmichael). Claims 7, 8 and 27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Carmichael in view of US 6,978,840 (Henderson). Claim 25 is rejected under 35 U.S.C. §103(a) as being unpatentable over Carmichael. Applicant respectfully disagrees with and traverses these rejections.

The Office Action considers that the subject matter of Claim 1 is known from Carmichael. However, on further review of the specific rejection of Claim 1, Applicant notes that the Office Action refers to the radial ports 3B as representing the bore through a portion of the body and as creating a barrier and providing isolation from production zones. The Office Action also refers to the radial ports 3B as representing the plurality of radial ports for passage of fluid from the bore to an outer surface of the body. Therefore, Applicant respectfully asserts that by amending Claim 1 to define the bore as an axial bore, the orientation of the bore referred to in the claim is clarified and distinguishes the plug as recited in Claim 1 from Carmichael. In Carmichael, Claim 1 recites that the downhole tool comprises a cylindrical body defining an axial passage therethrough [through the downhole tool]. As such, Carmichael clearly does not disclose an axial bore through a portion of the body and therefore cannot create a barrier and provide isolation from production zones as recited in present Claim 1.

Applicant also considers that the operation of opening and closing of the radial ports as claimed in present Claim 1 is distinguishable over Carmichael, in particular, how the radial ports are opened. Applicant respectfully asserts that Carmichael does not disclose the movement of the actuating mechanism to the third open position by increasing pressure to a predetermined pressure range for a predetermined period of time as described at page 20 lines 17 to 22 of the

Application Serial No. 10/579,274  
Reply to Office Action of April 18, 2011

PATENT  
Docket: CU-8471

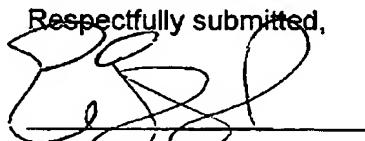
specification because Carmichael clearly describes opening of the radial ports by reducing (bleeding off) pressure in each of the embodiments described.

Referring to Carmichael, in the first embodiment (column 4, line 64 to column 5, line 7) the pressure level is reduced from a holding pressure and compression spring force moves the sleeve to the open position. Similarly, in the "J-slot" embodiments opening the radial ports occurs when pressure is decreased and compression spring force acts on the sleeve (column 5, lines 37 to 45 and column 5, lines 57 to 59). This clearly demonstrates that the operation of the downhole tool according to Carmichael does not use an increase in pressure to move the sleeve to an open configuration and moreover it does not specify an associated time period over which any pressure is held to open the radial ports. Carmichael clearly does not disclose the combination of an increased pressure range and holding that pressure over a predetermined time period in order to open the ports.

In view of the above comments, Applicant respectfully asserts that Carmichael does not teach or suggest each and every feature recited in independent Claims 1 or 21. Therefore, this reference cannot properly be cited as anticipating these claims. Since independent Claims 1 and 21 are allowable over the prior art, Applicant asserts that all claims depending therefrom are allowable for at least the same reasons, as well as for the features that they recite. As such, Applicant respectfully requests withdrawal of the present rejections under 35 U.S.C. §102(b) and 103(a).

In light of the foregoing response, all the outstanding objections and rejections are considered overcome. Applicant respectfully submits that this application should now be in condition for allowance and respectfully requests favorable consideration.

July 13, 2011  
Date

Respectfully submitted,  


Attorney for Applicant  
Eric D. Babych  
c/o Ladas & Parry LLP  
224 South Michigan Avenue  
Chicago, Illinois 60604  
(312) 427-1300  
Reg. No. 57,542